



ABC's Weekly Federal Legislative Update June 14, 2021

Introduction

Washington continues to focus on an infrastructure package and whether it could be passed in a bipartisan fashion or through a reconciliation process that requires only Democratic support. Either course is challenging. Democrats hold both chambers of Congress with the slimmest of majorities. They cannot afford to lose moderate to conservative Democrats. They also cannot afford to lose progressives. Pressure is building to come to decision on path forward.

Administration

[Infrastructure – Talks Break Down the White House and Senator Capito](#)

Early last week, talks between the lead Senate GOP negotiator and the White House fell apart. The following story discusses that process.

Nick Sobczyk, Geof Koss and Emma Dumain of [E&E Daily](#) wrote on June 9, "Democrats and the White House are turning to an alternate group of senators crafting their own infrastructure proposal after bipartisan talks between President Biden and Senator Shelley Moore Capito (R-W.Va.) fizzled out yesterday.

"The breakdown between Biden and Capito came after nearly two months of discussion and the exchange of a few counteroffers, but the two sides failed to close the gap on the scope of a package, the overall cost and how to pay for the plan.

"The White House is now pursuing talks with a bipartisan group of lawmakers known as the "G-20," but top Democrats signaled yesterday that they're prepared to go it alone should the GOP remain unwilling to come around on key priorities, including climate.

"In a statement after a phone call with the president, Capito said she was "disappointed" that Biden had chosen to pull the plug on negotiations.

"Despite the progress we made in our negotiations, the president continued to respond with offers that included tax increases as his pay for, instead of several practical options

that would have not been harmful to individuals, families, and small businesses," she said in a statement.

"While I appreciate President Biden's willingness to devote so much time and effort to these negotiations, he ultimately chose not to accept the very robust and targeted infrastructure package, and instead, end our discussions."

"In a statement, White House press secretary Jen Psaki said that Biden had informed Capito that her latest offer "did not, in his view, meet the essential needs of our country to restore our roads and bridges, prepare us for our clean energy future, and create jobs."

"He offered his gratitude to her for her efforts and good faith conversations, but expressed his disappointment that, while he was willing to reduce his plan by more than \$1 trillion, the Republican group had increased their proposed new investments by only \$150 billion."

"Psaki said that Biden had spoken with Senators Kyrsten Sinema (D-AZ), Joe Manchin (D-WV) and Bill Cassidy (R-LA) — all of whom have emphasized the need for bipartisanship in assembling an infrastructure package.

"He urged them to continue their work with other Democrats and Republicans to develop a bipartisan proposal that he hopes will be more responsive to the country's pressing infrastructure needs," Psaki said.

"Biden also spoke to House Speaker Nancy Pelosi (D-CA) about moving forward with an infrastructure package this month, as well as Senate Majority Leader Chuck Schumer (D-NY), with whom the president spoke about the need to get started on the budget resolution.

"The president is committed to moving his economic legislation through Congress this summer, and is pursuing multiple paths to get this done," Psaki said.

"Her comments on the budget resolution were the latest sign that the White House and congressional Democrats will move ahead on Biden's infrastructure plan without GOP support if needed.

"The next budget resolution is expected to contain instructions allowing the package to pass the Senate by a simple majority under budget reconciliation, which allows certain bills to bypass the 60 votes needed under normal rules to skip a filibuster.

"Senate Budget Chairman Bernie Sanders (I-VT) said he's hoping to move to reconciliation "as soon as possible" and to use it to pass both Biden's family plan and the president's infrastructure and climate proposal.

"The president's job is he's given us a broad outline. Our job is to take that outline and move with it to deal with the issue," Sanders told reporters. "I happen to think more money should go into climate, maybe less money elsewhere, but it's a good start."

"Schumer signaled yesterday that Democrats could pursue infrastructure on two paths. "It may well be that part of the bill that will pass will be bipartisan, and part of it will be through reconciliation," Schumer told reporters.

"But we're not going to sacrifice the bigness and boldness in this bill. We will just pursue two paths. And at some point, they will join."

"It remains to be seen how the traditional bipartisan surface transportation bill — which passed unanimously through the Senate Environment and Public Works Committee — fits into the equation.

"The House is set to mark up its own surface transportation measure today, along with a water infrastructure bill. Both are opposed by the GOP.

'Waiting in the wings'

"Members of the G-20 group were set to meet last night, but they offered few details yesterday about how far they would be willing to go to meet Biden, who initially proposed to spend more than \$2.2 trillion on an infrastructure bill.

"Senator Mitt Romney (R-UT) said the lawmakers are still "nailing down exactly where we are." "We've been, at this stage, waiting in the wings if there's interest in our proposal," Romney told reporters.

"But Romney and Cassidy both explicitly shot down the idea of using a carbon tax to pay for the plan. "In our proposal, we don't have a carbon tax," Romney said.

"Cassidy, meanwhile, said he would continue to advocate for more funding for coastal resilience in any final package.

"In Louisiana, it's not just building the infrastructure; it's protecting the infrastructure that we have," Cassidy said.

"If you look at Port Fourchon, which is the port that supplies all the offshore energy production, and you look at it 30 years ago, with all the land all around it — you look at it 10 years ago? It's an island, there's been that much coastal erosion ... the more exposed, the more vulnerable our ability to support energy infrastructure is."

"Cassidy later tweeted that he had spoken to Biden on the phone about infrastructure, writing that he had pitched the inclusion of "flood resiliency and energy provisions."

“But the end of Capito's negotiations could portend a poor outcome for the bipartisan group. Several Republicans said yesterday that Biden was unwilling to go far enough in their direction.

"The closest we ever were was the day we were in the Oval Office with the president," said Senator John Barrasso (R-WY), a member of Capito's negotiating group, referring to a meeting at the White House last month. "He has never really moved toward us in terms of core infrastructure."

“Barrasso said the six Senate Republicans walked away from that meeting thinking they were close to a deal that could get "60 or 70 votes."

"I think it'll be very difficult for Joe Biden to get 60 votes working with this G-20, because I think what he agrees on with them is not going to get him the rest of the Democrats," Barrasso told reporters.

Climate anxiety

“The talks between Biden and Capito had spurred concerns among Democrats and progressive groups that climate change had fallen by the wayside, given the GOP's reluctance to include the issue in "core" infrastructure.

“Those concerns were bubbling under the surface yesterday, even as focus turned to bipartisan talks with the G-20.

“Senator Sheldon Whitehouse (D-RI) said Monday that he was "anxious about climate legislation" in a tweet thread that spread among climate advocates.

“Whitehouse told reporters yesterday that the Biden administration was "getting there" and had reached out to him, but that the president had not mollified his concerns.

“Another climate hawk — Senator Brian Schatz (D-HI) — said he has had "some pretty constructive conversations with the White House over the last couple of days."

"Only the paranoid survive in politics, and we haven't even enacted a budget resolution yet, so there's a long way to go," Schatz said. "I'll just say I share Sheldon's anxiety, but we've also heard relatively reassuring things from the White House."

“As Schumer entered an elevator yesterday, E&E News asked whether he had a response to Whitehouse's concerns.

"We need bold, strong climate provisions in the bill," Schumer proclaimed with a smile as the doors closed.

[Infrastructure – Wooing Senator Joe Manchin](#)

As stated earlier, any infrastructure deal would need to have the support of Senate moderates including West Virginia Senator Joe Manchin. DOE Secretary Granholm, and her relationship with Senator Manchin, are key to the Whitehouse's advocacy.

On June 11, Jeremy Dillion and Lesley Clark of E&E Daily wrote, "Energy Secretary Jennifer Granholm has been entrusted by President Biden to round up support for his sweeping climate and energy package. She is making the case for big infrastructure spending in interviews and public appearances. But it's her former job that has given her entree to one of Biden's biggest, and most elusive, targets: Senator Joe Manchin (D-WV).

"Both Manchin and Granholm are part of a "fraternity" of former governors, some say, forged by their time in office during the last financial crisis. That shared bond gives her enhanced standing as she tries to convince Manchin to get on board with a climate strategy that looks to cut greenhouse gas emissions at an ambitious rate.

"The relationship was on full display last week as Granholm, Michigan's former Democratic governor, visited Manchin's home state at the invitation of the senator. It was her second such visit in an official capacity as a public official. The first was when the two were governors in the 2000s, she said.

"Manchin had nothing but kind words. "Her visit to West Virginia was evidence of her willingness to listen, learn and commit to solutions that include West Virginia workers as the economy grows and changes," he said in a statement to E&E News.

"Granholm is an important asset for Biden's efforts to push energy projects over the finish line, said Former Energy Secretary Bill Richardson, who later went on to be the Democratic governor of New Mexico.

"There's a fraternity of former governors who stick together because we've had the toughest job in American government," said Richardson, who chaired the Democratic Governors Association when Manchin and Granholm were in office. "They had a good relationship then, and they've both been interested in energy issues as governors."

"Richardson, too, noted that they both represented states with economic challenges.

"Their similar experiences as governor can only be helpful to understanding each other," Richardson said. "It's a smart move on the Biden people to connect them."

"That connection is part of a friendship that dates back two decades, and it may prove vital as the two look to navigate increasing calls for climate action from the Biden **administration.**

'In battle together'

“Hailing from a state with a long history of fossil fuel production, Manchin, chairman of the Energy and Natural Resources Committee, represents the constituency that Granholm must convince in her effort to refocus climate action as economic stimulus.

“And as the critical swing vote in a 50-50 Senate, where his stances on voting rights and the filibuster have already frustrated the Biden administration, reaching Manchin may prove vital for meaningful climate action to pass the Senate this Congress.

“Granholm suggested that both states share common ground.

"There were so many analogies in my mind to what happened in Michigan," Granholm said of her visit to West Virginia. "It underscored to me how much Joe Manchin feels the despair of communities that are losing their jobs, and how much he wants to fight for them and fight for a solution for them so that they can see themselves in that future."

“Part of the trust each feels can be traced back to Michigan's woes during the Great Recession, both said separately.

“Both were part of a larger coalition of governors pitching the George W. Bush and Obama administrations for more help as their states weathered a cascading crisis.

"Joe was an ally in that, even though West Virginia was not hit as hard as the manufacturing states were because of the financial crisis," Granholm recalled. "But because of going through that together, I know that Joe Manchin understands what it's like, having seen it happen to other states."

"That experience of having been in battle together, I think that forges strong friendships," Granholm added.

'An honest broker'

“Indeed, Granholm and Manchin often found common ground as governors.

“Manchin said he first got to know Granholm at the National Governors Association and Democratic Governors Association. "I have always found her to be reasonable, rational, and she was always an honest broker," he said.

“At a July 2007 National Governors Association meeting, they were among the governors who said they would oppose stricter U.S. limits on greenhouse gas emissions until developing countries, such as China and India, were made to meet similar guidelines.

"We can do all we want over here in the United States," Granholm said at the time, "but if there is no lessening of emissions in China, then it does nothing."

“And Manchin said the United States could not afford to stop using the coal his state produced, adding that Americans were on pace to double coal consumption by 2030.

"It can't be one energy pitted against the other," Manchin said at the time. "Whether it's natural gas or oil or coal or wind or solar or whatever, it's going to take every bit of this mix to make this country energy independent."

“In June 2008, Granholm and Manchin were among 16 Democratic governors who met with then-Democratic presidential candidate Barack Obama — telling him their residents were struggling to make ends meet in the face of rising gasoline and food prices.

“Granholm asked Obama for research into battery technology that might help revive her state's battered auto industry, and Manchin made a pitch for clean-coal technology research.

Agreement on green tax credits

“Granholm has also been a longtime booster of a Manchin priority: renewal of the so-called 48C tax credit, an Obama-era investment tool to boost clean energy manufacturing. Granholm in 2010 joined 18 other governors in a letter to Obama supporting his call to expand the Advanced Energy Manufacturing Tax Credit Program.

“Manchin has long pushed to revive the credit as a way to direct spending to coal communities left behind in the broader energy market transition to clean energy.

“Along with Senators Debbie Stabenow (D-MI) and Steve Daines (R-MT), he introduced legislation that would jump-start the credit with an \$8 billion spending ability, half of which would be dedicated to communities located next to where a coal mine or power plant had recently been shuttered.

“As part of their visit to West Virginia, the duo renewed their push with calls to reenergize the credit as part of the broader infrastructure negotiations.

“Flanked by a poster featuring a quote from former President Kennedy's famous visit to the state in 1963 — "The sun does not always shine in West Virginia, but the people always do" — the duo hosted a press conference that made the case that West Virginia workers could help fill the supply problem stemming from the increased public demand for clean energy deployment.

“The credit was a key energy provision in the White House's American Jobs Plan, which included calls for an expanded 48C credit as well as multiple hydrogen and carbon capture demonstration projects, all directed at fossil fuel communities.

"Everyone wants to fight for their people," Granholm said. "Right now, it's the fossil fuel communities that feel particularly vulnerable, which is why it is important and really

significant that the Biden administration wants those communities to know that they are not going to be left behind."

"While Manchin has offered support for a clean energy workforce, he has pumped the brakes on comprehensive climate policies, like the Biden administration-backed clean energy standard and carbon pricing. He fears that such actions would eliminate resources without addressing global emissions like those from China.

"Such rhetoric has become standard for Manchin, frustrating the more climate-focused wing of his party.

Clear where market is heading

"Granholm was not willing to guarantee that her friendship with Manchin would yield results in trying to convince him of the utility of clean energy or an infrastructure policy.

"I think I'm just one small voice among many who have bigger footprints," she said.

"She did say that Manchin is willing to listen.

"Manchin is "very clear-eyed about where the market is heading, so policies that reflect that and reflect the ability to recognize that the movement of the market itself away from coal, for example, or carbon pollution is an opportunity for us to say, 'Here are the solutions that can create jobs for your people,'" Granholm said. "And I think he will be open to those."

"Richardson, the former Energy secretary, noted that Biden's energy plans will require a "gargantuan public investment" and said Granholm is likely to keep the focus on energy and jobs.

"Maybe energy is the path to get him on board," he said of Manchin."

This story also appears in Energywire.

Congress

[Infrastructure: Democrats to Biden – No Climate, No Deal](#)

Also key to passing any infrastructure package is the support of House and Senate Progressive Democrats. The following story discusses their take on the latest negotiations.

E&E Daily reporters Nick Sobczyk, Geof Koss, and Emma Dumain submitted on June 10, "Progressives yesterday ramped up a pressure campaign on the White House to deliver on climate legislation, with several Democrats signaling they would not vote for an infrastructure bill absent significant provisions to slash greenhouse gas emissions.

“Talks have entered a new phase on Capitol Hill after President Biden this week dropped negotiations with Senator Shelley Moore Capito (R-W.Va.) and moved on to a bipartisan group of lawmakers that is crafting its own infrastructure proposal.

“But any deal with Republicans, including the bipartisan negotiating group, is unlikely to include the kind of sweeping climate provisions Biden laid out in his initial \$2.2 trillion-plus American Jobs Plan.

“The progressive line in the sand could further complicate those conversations and offer a reminder to the White House that Senator Joe Manchin (D-W.Va.) isn't the only swing vote in the 50-50 Senate.

"If you're going to pass an infrastructure plan, there aren't many Republicans at the table, so you're going to need every single Democratic vote to pass an infrastructure plan," Senator Martin Heinrich (D-NM) said yesterday during a virtual event with Climate Power. "And I think there is little appetite in the Democratic caucus for an infrastructure plan that ignores the greatest crisis, the most existential crisis that we face."

“Heinrich later tweeted that "an infrastructure package that goes light on climate and clean energy should not count on every Democratic vote."

“The line was amplified across social media yesterday by prominent lawmakers, including Senators Sheldon Whitehouse (D-RI) and Michael Bennet (D-CO) and Representative Alexandria Ocasio-Cortez (D-NY).

“Senator Ed Markey (D-MA) offered an even starker version of the warning: "No climate, no deal." By last night, he was doubling down even further.

“It was a sign that many Democrats view an infrastructure bill as the only game in town for tackling climate change, with appropriations and the midterm season creeping over the horizon.

"I'm still very anxious, and I'm going to stay very anxious until we have a solid 1.5 degrees bill and a path to passage," Whitehouse told reporters yesterday.

'Critically important'

“Senator Mitt Romney (R-UT), who is part of the bipartisan negotiating group, appeared to confirm progressives' fears about the constraints of a bipartisan infrastructure package, specifically that it would not be able to accommodate the ambitious and far-reaching environmental policy reforms they desire.

"The Democrats' agenda on climate change is probably something they're going to pursue, by and large, outside of an infrastructure bill," Romney said.

“Democratic leaders have raised the possibility as well, and it remains to be seen whether a bipartisan bill could move alongside partisan legislation that contains parts of Biden's proposal that Republicans do not support.

“Senate Majority Leader Chuck Schumer (D-NY) said this week Congress could pass a bipartisan measure and a separate Democratic package through budget reconciliation, which allows certain bills to bypass the filibuster.

“But Romney said the bipartisan proposal would include "a number of line items that relate to climate change."

"One relates to nuclear power, another to hydrogen power, another to direct air capture, another to CO2 pipelines," Romney told reporters. "So all those things are related to climate change."

“For progressives and climate hawks, that's unlikely to be enough. Bennet said yesterday that a clean electricity standard is a "critically important" piece of a potential infrastructure bill, and congressional Democrats have pushed for electric vehicle and transmission spending that goes well beyond what Republicans have been willing to offer.

“White House climate adviser Gina McCarthy also ruffled feathers this week when she acknowledged in an interview with POLITICO that some of Biden's climate proposals — like the clean electricity standard — could drop out of infrastructure talks.

“Whitehouse said he spoke to individuals inside the administration on Tuesday but would not elaborate on the conversation or say who was on the call, saying only "they were very helpful, as always."

“He also said that despite his climate worries, he wasn't concerned with the incremental give-and-take in negotiations, and would withhold judgment until a bill is available to scrutinize.

"It's probably wise not to get too excited about alleged pieces of an unformed bill," Whitehouse told reporters. "We've got work to do putting an actual bill together, and at the end of the day, that's going to be the acid test."

“Bennet said he's ultimately confident "that we're going to pass a large infrastructure bill with a strong climate component out of the U.S. Senate."

"In fact, I think that's the only infrastructure bill that we can pass out of the Senate," Bennet said during the event with Climate Power.

'Putting feelers out'

“The progressive angst comes after a Tuesday night meeting of the bipartisan infrastructure group, but it remains unclear when a proposal could emerge.

"We're putting feelers out and getting more input from our colleagues on both sides," Senator Rob Portman (R-Ohio) said yesterday, adding that the group has not yet finalized a top-level spending number.

“Senator Bill Cassidy (R-LA), who spoke with Biden by phone about the effort earlier this week, said it's a work in progress. He described the forthcoming proposal as a framework rather than legislative language.

"We have a first kind of draft, and then you kind of take it to a wider audience and see what they think," he told reporters. "It has to be acceptable to both conferences if you're going to get 60 votes."

“Cassidy declined to comment on whether the group is looking to index the federal gas tax for inflation to help pay for its plan, as Republicans proposed doing in the last Congress to pay for surface transportation programs.

“He also declined to say whether the bipartisan group is looking to repurpose COVID-19 relief funds as a pay-for, a sticking point in the talks between Biden and Capito that collapsed this week.

“The White House has also opposed GOP proposals to pay for infrastructure through user fees, raising an additional hurdle for indexing the gas tax.

“But Senator Mike Crapo (R-Idaho), the ranking member on the Finance Committee who was part of the failed GOP negotiation with Biden, said yesterday that the White House may have been open to some of the proposals if a broader deal had materialized.

"We didn't get close enough for a deal to come together obviously, but we did identify a number of different options, which I think had we been able to get closer on the actual spending number might have panned out," he told E&E News yesterday.

“However, Crapo added that the two sides "were still far apart" on pay-fors and the overall spending levels, not to mention the scope of the package.

“Portman suggested yesterday that the forthcoming bipartisan proposal would also hew to the "traditional" notions of infrastructure, but he also signaled support for electric vehicle infrastructure — a flashpoint in the earlier talks.

"The infrastructure of charging stations is infrastructure," he said. "But giving a \$100 billion in rebates to companies is not infrastructure."

“Republicans have pilloried the \$174 billion for EVs included in Biden's \$2.2 trillion American Jobs Plan as unnecessary but later counteroffered \$4 billion for EV infrastructure.

“Meanwhile, the bipartisan House Problem Solvers Caucus — which includes 58 members equally divided between the two parties — is proposing \$25 billion for EV infrastructure and electric buses as part of a new \$1.25 trillion infrastructure proposal.

“The eight-year plan includes \$761 billion in new spending, another point of contention in the failed Biden-Capito talks, with the White House saying that the last GOP counteroffer represented only a \$257 billion increase over what would be spent anyway.

“The Problem Solvers' plan, which does not include pay-fors, would dedicate \$582 billion to roads, bridges and safety; \$155 billion for transit; \$120 billion for freight and passenger rail; \$26 billion for ports; \$45 billion for resiliency efforts; \$74 billion for water projects, including storage in the West; and \$71 billion for clean energy.”

Other